

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

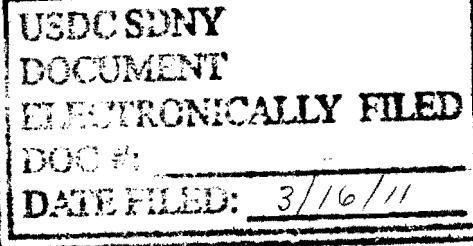
SABRINA PRITCHARD,

Plaintiff,

v.

M.M.O. MUSIC GROUP,

Defendant.



08 Civ. 7129 (RO)

ORDER

OWEN, District Judge:

Pro se Plaintiff brings this action against Defendant M.M.O. Music Group (“MMO”) for alleged discrimination on the basis of race, color, and age, in violation of Title VII, the Age Discrimination in Employment Act (“ADEA”), and the New York State Human Rights Law. For the reasons set forth below, this Court hereby adopts the Report and Recommendation of Magistrate Judge Lisa Margaret Smith in its entirety, granting Defendant’s motion for summary judgment and dismissing the action.

BACKGROUND

MMO is a corporation in the music publication industry. MMO originally hired Plaintiff in January, 2007 and terminated her employment in June, 2007.¹

Plaintiff filed a Verified Complaint with the New York Division of Human Rights. A conference was held on the matter in October, 2007, and after conducting an investigation, the

¹ The facts giving rise to this action are provided in Judge Smith’s March 23, 2010 Report and Recommendation and will not be repeated here.

Division found no probable cause to support Plaintiff's assertions that she was terminated for discriminatory reasons, and that the evidence was insufficient to support her allegations. The Equal Employment Opportunity Commission adopted those findings. Plaintiff filed this action on August 11, 2008.

On October 14, 2009 (Docket Entry Nos. 18-22), Defendant filed a motion for summary judgment, which Plaintiff opposed on December 3, 2009. (Docket Entry No. 24.) MMO replied to Plaintiff's opposition on December 8, 2009. (Docket Entry No. 25.) On March 23, 2010, Magistrate Judge Lisa Margaret Smith issued a Report and Recommendation (the "Report"), in which she recommended that summary judgment be granted in favor of MMO and that the case be dismissed. (Docket Entry No. 28.)

Judge Robinson approved three separate requests by Plaintiff for an extension of time to file objections to the Report: a thirty-day extension granted on April 5, 2010; a sixty-day extension on April 27, 2010; and a ninety-day extension on June 23, 2010. On August 2, 2010, the case was transferred to this Court. This Court then granted Plaintiff one final fourteen day extension on September 14, 2010, in response to Plaintiff's requests for an additional ninety-days to file objections. Plaintiff has not filed objections to the Report.

DISCUSSION

United States Magistrate Judges hear dispositive motions and make proposed findings of fact and recommendations, generally in the form of a Report and Recommendation. Absent objections by to the Report by a party, district courts review those orders under a clearly erroneous or contrary to law standard of review. 28 U.S.C. § 636(b)(1)(A).

Plaintiff's claims under Title VII and the New York Human Rights Law fail because they do not demonstrate a prima facie case of discrimination. As the Report explains, Plaintiff has provided essentially no evidence to support a claim of disparate treatment, an essential element of an employment discrimination claim under these statutes. Plaintiff's age discrimination claims fail because MMO was not an "employer" for purposes of the statute in 2006 and 2007 because MMO had fewer than twenty employees during that time. Finally, Plaintiff's age discrimination claim under the New York Human Rights law must be dismissed because, as explained in the Report, Plaintiff has provided no evidence to support her conclusory allegations that she was discriminated based on her age in any way.

CONCLUSION

For the reasons set forth above, this Court hereby adopts, in its entirety, the Report and Recommendation of Magistrate Judge Lisa Margaret Smith. Defendant's motion for summary judgment is GRANTED and this case is hereby DISMISSED.

SO ORDERED.

March 15, 2011



RICHARD OWEN
UNITED STATES DISTRICT JUDGE